IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO. 271 OF 2005

IN

SUIT NO.3706 OF 2004

Narendra Kumar Kabra .. Plaintiff.

vs.

Satyam Apparels & Ors. .. Defendants.

Mr. N. M. Shah i/by R.R. Mishra
for plaintiff.
Mr. Anil Agarwal with Rajendra Singh
i/by S.M. Jain for defendants.

CORAM : S.U.KAMDAR, J.

DATE : 20th February, 2006.

P.C.

. The present suit is based on a claim which has been made by the plaintiff for the recovery of a sum of Rs. 5,21,065/-. The said claim is based on a loan by the defendants and is based on confirmation. however, it is the case of the defendants that the amount is paid by demand draft and necessary details are also produced. The Branch Manager, Bank of Baroda, Vile Parle Branch remained present and has produced before me xerox copy of the

banker's cheque for Rs.4,05,118/- dated 7.9.2004 and he has stated that the said cheque is encashed. However, the learned counsel for the plaintiff states that he has not encashed any such demand draft and accordingly I directed by my order dated 30.1.2006 Deputy Commissioner of Police, Western Zone to conduct an enquiry and file a report. The Deputy Commissioner of Police by his letter dated 3.2.2006 assured that such a report will be filed. If the report is filed, the matter to be placed for directions. However, in light of the fact that there is serious dispute regarding encashment of the demand draft, the suit will be required to be heard and triable defence has been made out by the defendants. In view thereof, there shall be an unconditional leave to defend. The Summons for judgment disposed of accordingly.

2. Suit transferred to the list of Commercial Causes. Written Statement or points of defence to be filed four weeks from the date of deposit. Affidavits list of documents to be filed within four weeks thereafter. Inspection within four weeks thereafter. Suit to be on Board of the learned Judge taking Commercial Causes.